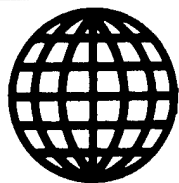


JPRS-CSB-87-004  
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## ***STATE COUNCIL BULLETIN***

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No 30, 30 NOV 86; No 31, 10 DEC 86

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CHINA

STATE COUNCIL BULLETIN

No 30, 30 Nov 86; No 31, 10 DEC 86

[Translation of the tables of contents and selected items from ZHONGHUA RENMIN GONGHEGUO GUOWUYUAN GONGBAO published in Beijing.]

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## PRC, HUNGARY SIGN CONSULAR TREATY

Beijing STATE COUNCIL BULLETIN in Chinese No 30, 30 Nov 86 pp 884-896

[Consular Treaty Between the PRC and the Hungarian People's Republic (signed on 3 June 1986)]

[Text] The PRC and the Hungarian People's Republic, desiring to define and strengthen the consular relations between the two states with a view to facilitating the protection of the rights and interests of the two states and the nationals of the two states, and promoting the development of the relations of friendship and cooperation between the two states, have decided to conclude this treaty, and have appointed as their plenipotentiaries:

State counselor and Foreign Minister Wu Xueqian as sent by the PRC;

Foreign Minister Dr Peter Varkonyi as sent by the Hungarian People's Republic.

The plenipotentiaries of the two contracting parties have agreed as follows:

### Chapter 1. Definitions

#### Article 1

For the purpose of this treaty:

- (1) "Consulates" means consulates general, consulates, vice consulates or consular agencies;
- (2) "Head of the consulate" means the person appointed by the appointing country to head a consulate;
- (3) "Consular officials" means the personnel, including the head of the consulate, so appointed by the appointing country to perform consular functions;
- (4) "Staff members of the consulate" means the personnel engaged in administrative, technical or service work in the consulate;

(5) "Members of the consulate" means the consular officials and staff members of the consulate;

(6) "Consular district" means the area designated for the consulate to perform its consular functions;

(7) "Consular premises" means the buildings or parts thereof for the special use of the consulate, as well as the land attached, regardless of their ownership;

(8) "Nationals of the appointing country" means the natural and juridical persons of the appointing country;

(9) "Vessels of the appointing country" means any vessel other than military vessels registered in the appointing country and flying the national flag of the appointing country.

## Chapter 2. The Establishment of the Consulate and the Appointment and Commission of Members of the Consulate

### Article 2

1. The appointing country must obtain the approval of the receiving country before setting up a consulate in the territory of that country.
2. The appointing and receiving countries shall decide on the location, rank, and consular district, as well as any changes thereof, through consultation.

### Article 3

1. The appointing country shall present to the receiving country the letter of appointment of the head of the consulate through diplomatic channels. The letter of appointment shall show the name in full and title of the head of the consulate, as well as the location and rank of the consulate and the consular district.

2. The receiving country shall issue the exequatur as soon as possible upon receipt of the letter of appointment of the head of the consulate. The receiving country does not have to state its reasons if it refuses to issue the exequatur.

The receiving country does not have to state its reasons if it refuses to issue the exequatur.

Prior to the issuance of the exequatur, the head of the consulate may perform his functions on a temporary basis with the approval of the receiving country.

4. After issuing the exequatur or granting permission for the head of the consulate to perform his functions on a temporary basis, the receiving country shall immediately notify the competent authorities of the consular district and adopt the necessary measures to ensure that the head of the consulate can perform his functions and enjoy the rights, privileges and immunity stipulated in this treaty.

#### Article 4

1. If, for any reasons, the head of the consulate cannot perform his functions, or if his post is temporarily vacant, the appointing country may appoint a consular official of the consulate concerned or of another consulate in the receiving country, or a diplomatic official of its consulate in the receiving country, to temporarily take over his functions. The name in full and original title of this person shall be communicated in advance to the Ministry of Foreign Affairs of the receiving country.

2. The acting head of the consulate shall enjoy the same rights, privileges, and immunity, and shoulder the same obligations, as the head of the consulate appointed in accordance with Article 3.

3. If, in accordance with Clause 1 of this article, a diplomatic official of the consulates of the appointing country is appointed to temporarily head the consulate, his diplomatic privileges and immunity shall not be prejudiced because of this appointment.

#### Article 5

The appointing country shall duly notify in writing the receiving country:

(1) The name in full and title of members of the consulate, the date of their arrival, final departure and termination of functions, as well as changes in their functions during their office in the consulate;

(2) The name in full and nationality of the family members of members of the consulate, the date of their arrival and final departure, as well as facts as regards any person becoming or ceasing to become family members of members of the consulate.

#### Article 6

1. Consular officials must be nationals of the appointing country who may not be permanent residents of the receiving country.

2. Staff members of the consulate should be nationals of the appointing country or nationals of the receiving country.

#### Article 7

The receiving country may, at any time, notify the appointing country through diplomatic channels its decision to declare a certain consular official as

persona non grata or a certain staff member of the consulate as unacceptable without having to state the reasons of its decision. Under such circumstances, the appointing country should rescind the appointment of the person concerned and recall or terminate his employment in the consulate. If the appointing country cannot fulfill this obligation within a reasonable period of time, the receiving country may withdraw his exequatur or refuse to recognize his status as a member of the consulate.

### Chapter 3. Facilities, Privileges and Immunity

#### Article 8

1. The receiving country shall treat consular officials with due respect and take all appropriate measures to prevent their person, freedom, and dignity from any encroachment.
2. The receiving country has the special responsibility to take all necessary measures to protect the consular premises and the living quarters of consular officials from encroachment and damage, and to guard against the disturbance of the peaceful environment of the consulate and the impairment of the dignity of the consulate.

#### Article 9

1. In accordance with the laws and regulations of the receiving country, the appointing country is entitled to purchase, rent, build, or acquire by other means buildings or parts thereof as well as the land attached, for use as the consular premises and the living quarters of members of the consulate.
2. The receiving country shall extend assistance to the appointing country in acquiring the consular premises and, where necessary, assist the appointing country in finding suitable living quarters for members of the consulate.

#### Article 10

1. The consular premises shall be inviolable. The authorities of the receiving country may enter the consular premises only with the consent of the head of the consulate or the head of the embassy of the appointing country, or a person designated by one of the two aforesaid persons.
2. The consular premises may not be used for any purpose not compatible with the performance of consular functions.
3. The provisions of Clause 1 of this article shall also apply to the living quarters of consular officials.

#### Article 11

The consular premises and the equipment, property, and means of transport of the consular premises shall be exempt from expropriation.



## Article 12

1. The appointing country is entitled to affix to the consular premises the national emblem and write the signboard of the consulate in the languages of the appointing country and the receiving country.
2. The appointing country is entitled to fly the national flag on the consular premises, the residence of the head of the consulate and on the means of transport used by the head of the consulate when performing public duties.
3. The appointing country shall respect the laws and regulations and the common practices of the receiving country when exercising the rights stipulated in this article.

## Article 13

1. Consular archives shall be inviolable at all times and places.
2. Papers and goods not of an official nature may not be kept in the consular archives.

## Article 14

1. The consulate is entitled to communicate with the government of the appointing country and with the embassies and consulates of the appointing country in the receiving country or a third state. To this end, the consulate may use any public communications equipment, secret and plain codes, diplomatic or consular couriers, and diplomatic or consular pouches. However, the consulate may only install and use radio transmitters with the approval of the receiving country.
2. The official correspondence of the consulate and consular pouches bearing recognizable external markings shall be inviolable, and the authorities of the receiving [country] may not open or detain them. Consular pouches may only be used for carrying official documents and data and articles for office use.
3. Consular couriers can only be nationals of the appointing country without residence in the receiving country. Consular couriers should bear official documents to prove their identity. Consular couriers shall enjoy the same rights, privileges, and immunity as diplomatic couriers in the territory of the receiving country.
4. Consular pouches may be entrusted to the captains of vessels or aircraft of the appointing country. However, the aircraft or ship captains concerned should bear official documents showing the number of pouches carried, and may not be regarded as consular couriers. Provided that the relevant regulations of the receiving country are observed, consular officials may directly and freely deal with the aircraft or ship captains in respect of the delivery or acceptance of consular pouches.

## Article 15

1. Consular officials shall be immune from the civil, criminal and administrative jurisdiction of the receiving country, with the exception of the following civil proceedings:

(1) Lawsuits involving personal immovables in the territory of the receiving country, excluding immovables they own in the capacity of representatives of the appointing country for the use of the consulate;

(2) Lawsuits over legacies involving consular officials in their private capacity, and not representing the appointing country, as executors, estate managers, successors or beneficiaries;

(3) Lawsuits involving third-party claims for compensation for accidents caused by motor vehicles, vessels, or aircraft in the receiving country.

2. In taking measures in connection with cases mentioned in Clause 1 of this article, the receiving country should ensure that the person and living quarters of the consular officials are not violated.

3. Actions of staff members of the consulate in their performance of official functions shall be exempt from the civil, criminal, and administrative jurisdiction of the receiving country, with the exception of the civil proceedings mentioned in Section (3) of Clause 1 of this article.

4. The receiving country should immediately notify the head of the consulate if it is going to arrest, detain, or file a criminal suit against a staff member of the consulate.

## Article 16

1. Consular officials shall not be obliged to testify as witnesses.

2. Staff members of the consulate may be invited to attend the law courts or administrative proceedings as witnessed. Staff members of the consulate may not refuse to testify except in circumstances described in Clause 3 of this article.

3. Staff members of the consulate shall not be obliged to testify in connection with their official functions or to provide the documents or articles concerned. Staff members of the consulate are entitled to refuse to testify as expert witnesses on the laws of the appointing country.

4. The competent authorities of the receiving country should avoid obstructing the staff members of the consulate from carrying out their official duties when they invite the latter to testify. Wherever possible, and at the request of the head of the consulate, staff members of the consulate may give verbal or written depositions in the consular premises or in their living quarters.

#### Article 17

1. The appointing country may waive any item of privilege or immunity stipulated in articles 15 and 16. However, each waiver should be clearly indicated and notified in writing to the receiving country.
2. If a person who is entitled to exemption from jurisdiction under Article 15 files a lawsuit of his own accord, he may not invoke immunity from jurisdiction in respect of the counterclaim that is directly connected with the case.
3. The waiver of immunity from jurisdiction in civil or administrative proceedings may not be regarded as the waiver or tacit waiving of immunity from the execution of decisions. Such a waiver shall be addressed separately.

#### Article 18

Members of the consulate may move about and travel freely in the territory of the receiving country provided that they observe the laws and regulations of the receiving country as regards national security restrictions or prohibited areas.

#### Article 19

Members of the consulate shall be exempt from any form of personal, public, and military services in the receiving country. They shall also be exempt from all obligations stipulated in the laws and regulations of the receiving country requiring foreign nationals to register and obtain residence permits, as well as other similar obligations that apply to foreign nationals.

#### Article 20

1. The authorities concerned of the receiving country shall not levy any tax on the following:
  - (1) Buildings and parts thereof or land owned or leased by the appointing country or by natural or juridical persons representing the appointing country for any of the special purposes mentioned in Article 9, as well as related transactions or contracts;
  - (2) Movables of the consulate owned, leased, or acquired by other means for the special use of the consulate.
2. The provisions of Clause 1 of this article shall not apply to:
  - (1) Fees charged for services provided;
  - (2) Levies and taxes payable in accordance with the laws of the receiving country by people who conclude contracts with the appointing country or its representatives;
  - (3) Indirect taxes that are usually included in the price of commodities or services.

#### Article 21

The authorities concerned of the receiving country shall not levy any tax on consular service fees charged on behalf of the appointing country, and on the receipts.

#### Article 22

Members of the consulate shall be exempt from all taxes levied by the authorities concerned of the receiving country, with the exception of the following:

- (1) Levies and taxes on personal immovables in the territory of the receiving country, with the exception of items stipulated in Section (1), Clause 1 of Article 20;
- (2) Levies and taxes on personal income derived in the receiving country outside the scope of their official functions;
- (3) Registration fees, state administrative and court fees, mortgage tax and stamp duty, with the exception of items stipulated in Article 20.
- (4) Inheritance tax and property alienation tax, provided that the provisions of articles 20 and 24 are not prejudiced;
- (5) Indirect taxes that are usually included in commodity or service price;
- (6) Fees charged for services provided.

#### Article 23

1. The receiving country shall, in accordance with its laws and regulations, allow the import and export of the following commodities, and exempt all customs duty and fees, with the exception of fees for storage, transport, and similar services:

- (1) Goods for the consulate, including motor vehicles;
- (2) Private goods of consular officials, including motor vehicles and goods needed for the setting up of their new homes.

2. The provisions of Section (2), Clause 1 of this article shall also apply to goods imported on the first arrival of staff members of the consulate.

3. The personal luggage of consular officials shall be exempt from customs inspection. However, when there is major cause to suspect that the luggage contains goods not covered by Section (2), Clause prohibited from import or export by the laws of the receiving country, or goods subject to the quarantine regulations of the receiving country, inspection may be carried out. The inspection must be carried out in the presence of the consular official concerned or his representative.

#### Article 24

1. If a member of the consulate or his family member dies in the receiving country and leaves behind movable property, the receiving country shall exempt the deceased's movable property from legacy tax or other similar fees, provided that:

(1) The deceased is not a national or permanent resident of the receiving country;

(2) The person entitled to the deceased's property is not a national or permanent resident of the receiving country;

(3) The movable property concerned was acquired by the deceased as a member of the consulate or a family member.

2. The receiving country shall allow the shipment of the above-mentioned movable property of the deceased out of the country, with the exception of property acquired by the deceased in the territory of the receiving country which is prohibited from export at the time of his death.

#### Article 25

Subject to the provisions of Clause 2, Article 26 of this treaty, the family members of consular officials and staff members shall enjoy the privileges and immunity which this treaty accords to the consular officials and staff members of the consulate.

#### Article 26

1. Staff members of the consulate who are nationals or permanent residents of the receiving country or are engaged in paid jobs in their private capacity shall not be entitled to the privileges and immunity stipulated in this treaty, with the exception of the provisions stipulated in Clause 3 of Article 16.

2. Family members of staff members of the consulate who are nationals or permanent residents of the receiving country or who are engaged in paid jobs in their private capacity in the receiving country shall not be entitled to the privileges and immunity stipulated in this treaty.

#### Article 27

1. Members of the consulate shall be entitled to the privileges and immunity stipulated in this treaty from the time they enter the territory of the receiving country on their way to take up office; those already in the territory of the receiving country shall start to enjoy these from the time they take up consular functions.

2. Family members of members of the consulate shall be entitled to the privileges and immunity stipulated in this treaty from the date the members of the consulate start to enjoy the privileges and immunity, or from the time they themselves enter the territory of the receiving country, or from the time they become family members of members of the consulate.

3. If the functions of a member of the consulate has been terminated, the privileges and immunity accorded to him and his family members shall be terminated at the time of departure from the territory of the receiving country or within a reasonable period necessary to arrange the departure. If the family member of a member of the consulate ceases to be his family member, the privileges and immunity accorded to him or her shall be terminated forthwith; but if the person concerned intends to leave the receiving country within a reasonable time, the privileges and immunity enjoyed may be extended to the time of departure.

4. If a member of the consulate dies, the privileges and immunity enjoyed by his family members shall be terminated at the time of their departure from the receiving country or at the end of a reasonable period necessary to arrange their departure.

#### Chapter 4. Consular Functions

##### Article 28

The receiving country shall extend full facilities and assistance to the consulate so that it can perform its functions.

##### Article 29

1. In addition to the functions stipulated in this treaty, consular officials may perform other functions entrusted by the appointing country that are not prohibited by the laws and regulations of the receiving country.
2. Consular officials shall have the power to perform consular functions only in the consular district. Approval must be obtained from the receiving country if they want to perform consular functions outside the consular district.
3. After notifying the receiving country, consular officials may perform consular functions on behalf of a third state provided the receiving country does not object.

##### Article 30

Consular officials have the power to:

- (1) Protect the rights and interests of the appointing country and its nationals;
- (2) Promote the development of commercial, economic, scientific and technological, cultural, educational, and tourist relations between the appointing country and the receiving country, and promote the friendly relations between the two countries in other areas;
- (3) Employ all legal means to find out about the commercial, economic, scientific and technological, cultural, educational, and other aspects of development of the receiving country, and make reports to the government of the appointing country.

### Article 31

Consular officials may contact the following authorities in their performance of duties:

- (1) The local competent authorities of its consular district;
- (2) The central competent authorities of the receiving country, provided that it is permitted by the laws and common practices of the receiving country.

### Article 32

The consulate shall be entitled to collect charges and fees for its consular services in the receiving country in accordance with the laws and regulations of the appointing country.

### Article 33

Where a national of the appointing country is unable to protect his own rights and interests in good time because of absence or other reasons, consular officials have the power, provided that the laws and regulations of the receiving country are observed, to represent that national before the law courts or other organs of the receiving country or designate appropriate representation on his behalf until the national concerned has designated his own representative or is able to protect his own rights and interests himself.

### Article 34

1. Consular officials have the power to:

- (1) Receive applications related to the nationality question in accordance with the laws of the appointing country;
- (2) Register nationals of the appointing country;
- (3) Register or receive notification regarding the birth or death of nationals of the appointing country;
- (4) Register marriage or divorce handled by the competent authorities of the receiving country in which at least one of the two parties concerned is a national of the appointing country;
- (5) Solemnize marriages between nationals of the appointing country and issue marriage certificates, provided that this is not prohibited by the laws of the receiving country.

2. The provisions of Clause 1 of this article shall not exempt the parties concerned from the obligation to observe the laws and regulations of the receiving country.

#### Article 35

Consular officials have the power to issue, withdraw, reissue, revise, extend and recertify passport, visas, and other similar documents.

#### Article 36

1. Provided that the laws and regulations of the receiving country are observed, consular officials have the power to:

(1) Draft, verify, certify, or attest legal documents for use in the appointing country or copies thereof, or give them validity by other means, at the request of individuals of any nationality;

(2) Draft, verify, certify, or attest legal documents for use in the receiving country or in a third state, or copies thereof, or give them validity by other means, at the request of nationals of the appointing country;

(3) Translate documents and certify that the translation is accurate.

2. When the documents mentioned in Clause 1 of this article are put to use in the receiving country, the authorities concerned shall treat them as being equally authentic as documents drafted, certified, or translated by the competent authorities or officials of the receiving country, provided that the making and application of the said documents are in conformity with the laws and regulations of the receiving country.

#### Article 37

1. Consular officials have the power, within the limits permitted by the laws and regulations of the receiving country, to protect the interests of nationals of the appointing country who are not capable of action, not fully capable of action, or not in the receiving country; where necessary, they may recommend appropriate candidates to the authorities concerned of the receiving country to serve as guardians or curators.

2. If the competent authorities of the receiving country become aware of the need to take measures to appoint guardians or curators for nationals of the appointing country, they must notify the consular officials as quickly as possible.

#### Article 38

1. Consular officials are entitled to contact and meet nationals of the appointing country in the consular district, make suggestions and extend all kinds of help to them, including legal aid.

2. The receiving country may not in any way restrict nationals of the appointing country from contacting or entering the consulate.

3. Consular officials may request the competent authorities of the receiving country for assistance in locating the whereabouts of nationals of the appointing country who are permanently or temporarily residing in the receiving country.



4. Without contravening the laws and regulations of the receiving country, consular officials have the power to receive and safekeep the identification papers, cash, or valuable goods of nationals of the appointing country.

#### Article 39

1. If a national of the appointing country is detained, arrested, or deprived of his freedom in other ways in the consular district, the competent authorities of the receiving country shall notify the consulate accordingly without undue delay and within 7 days at the latest.

2. Consular officials are entitled to visit nationals of the appointing country who are detained, arrested, or imprisoned, have contacts with and talk to them, and offer them legal aid. The competent authorities of the receiving country shall make arrangements for consular officials to visit the nationals concerned without undue delay within 3 days of the submission of the request, and continue to provide opportunities for future visits within a reasonable time.

3. The competent authorities of the receiving country shall notify the national of the appointing country detained or arrested of his rights under clauses 1 and 2 of this article.

4. Consular officials shall observe the laws and regulations of the receiving country when exercising the rights stipulated in Clause 2 of this article. However, the applicability of the laws and regulations of the receiving country shall not restrict the exercise of rights stipulated in this article.

#### Article 40

The competent authorities of the receiving country shall notify the consulate without undue delay when they learn that a national of the appointing country has died, disappeared, sustained serious injury, or countered grave difficulties in the receiving country, and shall provide upon request copies of the certificate of death or other documents certifying his death.

#### Article 41

Where the deceased national of the appointing country has left behind property in the receiving country, or where a national of the appointing country is a beneficiary of the estates of a deceased person of any nationality in the receiving country, the competent authorities of the receiving country shall notify the consulate without undue delay.

#### Article 42

If a deceased national of the appointing country has left behind property in the receiving country but there is no successor or beneficiary in the receiving country, consular officials may contact the competent authorities of the receiving country and are entitled to take appropriate measures to

protect and safekeep the said property in accordance with the laws and regulations of the receiving country. Consular officials may request permission to be present when the competent authorities of the receiving country take inventory of the property and take protective measures.

#### Article 43

Consular officials have the power to represent nationals of the appointing country who are not present in the territory of the receiving country in receiving from the law courts, other authorities, or individuals of the receiving country the legacies or gifts due to them, including their share of legacy, pension, social welfare, and insurance, and to hand over the said property to the nationals concerned.

#### Article 44

In the event a national of the appointing country who does not have permanent residence in the receiving country dies during his short stay in the receiving country, if the deceased does not have any relatives or representatives and has not incurred any debts in the receiving country, consular officials are entitled to retrieve and safekeep the belongings left behind by him and hand them over to people who are entitled to these belongings.

#### Article 45

Consular officials shall obey the laws and regulations of the receiving country when performing the functions mentioned in articles 43 and 44.

#### Article 46

1. Consular officials are entitled to extend any assistance and help to vessels of the appointing country that have sailed into the ports of the consular district and other places of berth.
2. Once a vessel is permitted to land, consular officials may contact and board the vessel; if a consular official so desires, he may ask other consular officials or staff members of the consulate to accompany him when boarding the vessel.
3. The captain and members of his crew should be allowed to contact consular officials and, to this end, may also go to the consulate or other appropriate places designated by consular officials, provided that the laws and regulations of the receiving country regarding part areas and permission for foreigners to enter the territory are not broken.
4. Consular officials may request the competent authorities of the receiving country for help on any matter pertaining to the performance of their duties in connection with the vessels of the appointing country and their captains and crew members.

#### Article 47

1. Consular officials have the power to:

- (1) Investigate accidents that took place on a vessel during its voyage, interrogate the captain and members of his crew, and get their statements regarding the ship's navigation and destination, provided that the authority of the competent authorities of the receiving country is not encroached upon;
- (2) Settle disputes, including disputes over wages and service contracts, between the captain and members of his crew provided that the authority of the competent authorities of the receiving country is not encroached upon and within the limits permitted by the laws of the appointing country;
- (3) Make arrangements for the captain and members of his crew to seek medical treatment or return home;
- (4) Receive, examine, draft, deliver, certify, or verify documents in connection with the ship;
- (5) Handle other matters related to the ship entrusted by the competent authorities of the appointing country.

2. Consular officials may, within the limits permitted by the laws and regulations of the receiving country, extend all kinds of assistance, including legal assistance, to the captain and members of his crew.

#### Article 48

1. The law courts or other competent authorities of the receiving country must notify the consulate beforehand and request the presence of consular officials or their representatives if they want to introduce compulsory measures or carry out formal interrogation on board the vessels of the appointing country. In cases of emergency where prior notice cannot be given, the competent authorities of the receiving country must immediately notify the consulate and, upon the request of consular officials, promptly provide all details regarding the actions taken.
2. The provisions of Clause 1 of this article shall also apply to similar actions taken on land by the competent authorities of the receiving country against the captain and members of his crew.
3. The provisions of clauses 1 and 2 of this article shall not apply to routine inspections as regards passport control, customs, quarantine, safety on sea, oil pollution, radio or other similar matters carried out by the competent authorities of the receiving country, or inspection carried out with the approval of the captain.

#### Article 49

If a vessel of the appointing country has an accident, is stranded or has incurred other major disasters in the inland waters or territorial waters of the receiving country in the consular district, the competent authorities of

the receiving country shall notify the consulate forthwith and inform the consulate of measures taken or to be taken for the rescue of people on board and its cargoes.

#### Article 50

In so far as the meaning is applicable, the provisions of articles 46 to 49 shall also apply to the aircraft of the appointing country. However, this applicability may not be a transgression of the regulations of the bilateral agreements between the receiving country and the appointing country or of multilateral agreements entered into by both parties.

### Chapter 5. General Provisions

#### Article 51

1. Without prejudice to their privileges and immunity, personnel entitled to privileges and immunity under this treaty shall be obliged to respect the laws and regulations of the receiving country, including the laws and regulations concerning traffic control.
2. Members of the consulate who are nationals of the appointing country may not engage in commercial or other profit-seeking activities in the receiving country outside his official duties.
3. Automobiles owned by the appointing country and used by the consulate and automobiles owned by members of the consulate and their family members must abide by the relevant regulations of the receiving country regarding compulsory insurance.

#### Article 52

1. Diplomatic personnel of the embassy of the appointing country in the receiving country may be appointed to perform consular functions outside their diplomatic duties.
2. The embassy of the appointing country shall notify the Ministry of Foreign Affairs of the receiving country of the name in full and title of the diplomatic personnel appointed to perform consular functions.
3. Diplomatic personnel mentioned in clauses 1 and 2 of this article shall enjoy the rights and fulfill the obligations of consular officials as stipulated in this treaty, and shall continue to enjoy the diplomatic privileges and immunity they are entitled to.

#### Article 53

1. This treaty must be ratified and shall enter into force on the 30th day from the date the instruments of ratification are exchanged. The instruments of ratification shall be exchanged in Beijing.

2. This treaty shall remain in force unless either contracting party notifies in writing the other contracting party of its request to terminate this treaty 6 months in advance through diplomatic channels.

Done in duplicate at Budapest on 3 June 1986 in the Chinese and Hungarian languages, both texts being equally authentic.

Plenipotentiary Representative  
of the PRC

Wu Xueqian (signed)

/8309

CSO: 4005/651

Plenipotentiary Representative of the  
Hungarian People's Republic

Peter Varkonyi (signed)

## PRC, GDR SIGN CONSULAR TREATY

Beijing STATE COUNCIL BULLETIN in Chinese No 30, 30 Nov 86 pp 898-911

[Consular Treaty Between the PRC and the German Democratic Republic (signed on 31 May 1986)]

[Text] The PRC and the GDR, desiring to develop consular relations between the two states with a view to facilitating the protection of the interests of the two countries and the rights and interests of the two peoples, and promoting the further development of the friendly relations and cooperation between the two countries, have decided to conclude this treaty and have appointed as their plenipotentiaries:

Wu Xueqian, state counselor and foreign minister, as sent by the PRC;

Foreign Minister Oskar Fischer as sent by the GDR.

The plenipotentiaries of the two contracting parties have agreed as follows:

### Chapter 1. Definitions

#### Article 1. Definitions

##### 1. For the purpose of this treaty:

- (1) "Consulates" means consulates general, consulates, vice consulates, and consular agencies;
- (2) "Consular district" means the area in which the consulate has the power to perform its consular functions;
- (3) "Head of the consulate" means the consul general, consul, vice consul, or consular agent appointed by the appointing country to head a consulate;
- (4) "Consular officials" means the personnel, including the head of the consulate, appointed by the appointing country to perform consular functions;
- (5) "Staff Members of the Consulate" means the personnel engaged in administrative, technical or service work in the consulate;

(6) "Members of the consulate" means the consular officials and the staff members of the consulate;

(7) "Family members" means the spouses of the members of the consulate and children living and raised by them;

(8) "Private service staff" means the personnel employed by members of the consulate for personal services;

(9) "Consulate premises" means the buildings or parts thereof for the special use of the consulate, as well as the land attached, regardless of their ownership;

(10) "Consular archives" means the official papers, secret codes, documents, books, and technical tools, as well as the appliances for their storage and protection;

(11) "Vessels of the appointing country" means all vessels other than military vessels legally flying the national flag of the appointing country;

(12) "Aircraft of the appointing country" means all civilian aircraft legally bearing the national emblem and designation of registration of the appointing country;

(13) "Nationals of the appointing country" means:

a. In respect of the PRC, natural persons having their status as nationals of the PRC;

b. In respect of the GDR, nationals of the GDR under the laws and regulations of the GDR.

2. The provisions of this treaty concerning nationals of the appointing country shall, where applicable, also apply to juridical persons.

Chapter 2. The Establishment of the Consulate, the Appointment of Members of the Consulate, and the Termination of Their Functions

Article 2. The Establishment of the Consulate

1. Consent must be obtained from the receiving country before a consulate can be established in the territory of that country.

2. The location, rank, consular district, and number of members of the consulate, as well as any changes thereof, shall be decided by the appointing country and the receiving country through consultation.

Article 3. The Appointment and Recognition of the Head of the Consulate

1. The appointing country shall present to the receiving country the letter of appointment of the head of the consulate through diplomatic channels. The

letter of appointment shall show the name in full and title of the head of the consulate, as well as the location of the consulate and the consular district.

2. The head of the consulate shall start his functions only after the receiving country has issued the exequatur. The exequatur should be issued within a short time, and prior to the issuance, the receiving country may permit the head of the consulate to perform his functions on a temporary basis. The receiving country does not have to state the reasons if it refuses to issue the exequatur.

3. Before the receiving country issues the exequatur to the head of the consulate or permits him to perform his functions on a temporary basis, necessary measures should be adopted to ensure that the head of the consulate can perform his functions, and enjoy the rights, facilities, privileges, and immunity provided by this treaty.

#### Article 4. The Temporary Performing of the Functions of the Head of the Consulate

1. If, for any reason, the head of the consulate cannot perform his functions, or if his post is temporarily vacant, the appointing country may appoint a consular official of the consulate concerned or of another consulate in the receiving country, or a diplomatic official of its consulates in the receiving country, to temporarily head the consulate. The receiving country should be notified through diplomatic channels beforehand.

2. The person appointed to temporarily head the consulate shall enjoy the same rights, facilities, privileges, and immunity accorded to the head of the consulate by this treaty.

3. If a diplomatic official of the consulate of the appointing country is appointed to temporarily head the consulate, his diplomatic privileges and immunity shall not be prejudiced.

#### Article 5. Notification of the Commencement and Termination of Offices

The appointing country shall, through diplomatic channels, notify in writing the receiving country of the following without undue delay:

(1) The names in full and titles of the members of the consulate, the date of their arrivals and final departures or the termination of their functions, as well as any changes in their capacity during their office in the consulate;

(2) The names in full and nationality of the family members of the members of the consulate, the date of their arrivals and final departures, as well as facts as regards any person becoming or ceasing to be family members of members of the consulate;

(3) The commencement and termination of the employment of private service staff, their names in full, nationality, functions, and the date of their arrivals and final departures.



#### Article 6. Identification Paper

1. The authorities of the appointing country shall issue every member of the consulate and members of their families identification papers affirming their status as members of the consulate or their family members.
2. The provisions of Clause 1 shall not apply to nationals of the receiving country or personnel with residence in the receiving country.

#### Article 7. The Nationality of the Member of the Consulate

1. Consular officials can only be nationals of the appointing country, cannot be nationals of the receiving country, and cannot have residence in the receiving country.
2. Staff members of the consulate and private service staff may be nationals of the appointing country or nationals of the receiving country.

#### Article 8. The Termination of the Functions of Members of the Consulate

1. The functions of members of the consulate shall terminate in one of the following cases:
  - (1) The appointing country notifies the receiving country that of functions of the member concerned shall be terminated;
  - (2) The receiving country shall notify the appointing country if it intends to withdraw the exequatur or temporary permit for the head of the consulate, or to declare a certain member of the consulate a persona non grata. In the event of such an occurrence, the appointing country should recall the personnel concerned or terminate his functions in the consulate. The receiving country does not have to state the reason of its decision.
2. If the appointing country does not fulfill its obligation stipulated in Section (2), Clause 1 of this article within an appropriate period, the receiving country may withdraw his exequatur or temporary permit if the person concerned is the head of the consulate; if the person concerned is another member of the consulate, the receiving country can refuse to recognize his status as a member of the consulate in the future.

### Chapter 3. Facilities, Privileges, and Immunity

#### Article 9. The Guarantee of the Performance of Consular Functions

1. The receiving country shall provide the consulate with full facilities for the performance of its functions.
2. The receiving country shall treat members of the consulate and their family members with due respect, and adopt appropriate measures to ensure that members of the consulate can effectively perform their functions.

3. The receiving country shall ensure that members of the consulate can enjoy the rights, facilities, privileges and immunity accorded by this treaty.

#### Article 10. The Acquisition of Consular Premises and Residences

1. The receiving country shall help the appointing country acquire the consular premises, the residence of the head of the consulate, and residences of members of the consulate.

2. Under the laws and regulations of the receiving country, the appointing country may purchase, build, rent, or use the consular premises, the residence of the head of the consulate and residences of members of the consulate, provided that these members are nationals of the appointing country and do not have residence in the receiving country.

#### Article 11. National Emblem and National Flag

1. The appointing country may affix to the consular buildings the national emblem and write the signboard of the consulate in the languages of the appointing country and the receiving country.

2. The national flag of the appointing country may be raised over the consular buildings and the residence of the head of the consulate.

3. The head of the consulate may fly the national flag of the appointing country on the automobiles he uses when performing public duties.

#### Article 12. The Inviolability of the Consular Premises and the Residences of the Consular Officials

1. The consular premises, the residence of the head of the consulate, and the residences of consular officials shall be inviolable. Without the consent of the head of the consulate, the head of the embassy of the appointing country or a person designated by one of the two aforesaid persons, the authorities of the receiving country may not enter the consular premises, the residence of the head of the consulate, and the residences of the consular officials.

2. The receiving country shall protect the consular premises. The receiving country shall take appropriate measures to protect the consular premises from any encroachment or damage, and guard against the disturbance of the peaceful environment of the consulate and the impairment of the dignity of the consulate.

3. The consular premises can only be used for purposes compatible with the nature and functions of the consulate.

#### Article 13. The Inviolability of Consular Archives

Consular archives shall be inviolable at all times and places.

#### Article 14. Freedom of Communications

1. The receiving country shall permit and protect the official correspondence of the consulate. The consulate is entitled to communicate with the government of the appointing country, the embassy of the appointing country and other consulates of the appointing country irrespective of their locations. The consulate may use all general forms of communications, including diplomatic and consular couriers, diplomatic and consular pouches, and secret codes. The establishment and use of radio stations must be approved by the receiving country.

2. The official correspondence and consular pouches of the consulate are inviolable. The authorities of the receiving country may not open or detain them. Consular pouches must bear recognizable external markings and can only be used to carry official documents and articles for office use.

3. Consular couriers can only be nationals of the appointing country without residence in the receiving country. Consular couriers bearing identification papers and official documents showing the number of pouches carried shall be accorded the same rights, privileges, and immunity as those accorded to the diplomatic couriers of the appointing country by the receiving country. This provision shall also apply to temporary consular couriers, but the rights, privileges, and immunity they enjoyed as couriers shall be terminated once they have delivered their consular pouches to the addressees.

4. Consular pouches may be entrusted to the captains of aircraft of the appointing country or the captains of the vessels of the appointing country. However, the captains concerned should bear official documents indicating the number of pouches, and may not be regarded as consular couriers. The consulate may assign a member of the consulate to directly deal with the captains of the appointing country in respect of the delivery or acceptance of consular pouches provided that the relevant safety regulations are observed.

#### Article 15. The Personal Inviolability of Consular Officials

The persons of the consular officials are inviolable, and may not be subject to arrest or detention. The receiving country shall accord due respect to consular officials, and shall take all appropriate measures to prevent their persons, freedom, and dignity from being violated.

#### Article 16. Immunity From Jurisdiction

1. Consular officials shall be immune from the jurisdiction of the criminal, civil, and administrative organs of the receiving country, except in the following civil proceedings:

(1) Lawsuits arising from contracts which have not been signed directly or indirectly in their capacity as representatives of the appointing country;

(2) Lawsuits involving third-party claims for compensation for damages caused by the means of transport in the receiving country;

(3) Lawsuits over private immovable property in the territory of the receiving country which are not used for consular purposes at the authorization of the appointing country;

(4) Lawsuits over legacies entered into in their private capacities;

(5) Lawsuits arising from professional activities other than their official functions in the receiving country.

2. The receiving country can take action only in connection with cases mentioned in sections (1) to (5) in Clause 1 of this article and provided that the person and residence of the consular official concerned are not violated.

3. The actions of the staff members of the consulate in performing their official functions are not subject to the jurisdiction of the receiving country, with the exception of the civil lawsuits mentioned in sections (1) and (2) of Clause 1 of this article.

4. In the event of the arrest or detention of the staff members of the consulate in the receiving country, the authorities of the receiving country should immediately notify the head of the consulate.

#### Article 17. Exemption From the Obligation To Testify

1. Consular officials shall not be obliged to testify as witnesses.

2. The law courts or other competent authorities of the receiving country may summon the staff members of the consulate to testify. The staff members of the consulate may not refuse to testify. However, the staff members of the consulate shall not be obliged to testify in connection with their official duties, to provide the documents and papers concerned, and to testify as verifiers on the laws of the appointing country.

3. If the law courts or other competent authorities have to invite the staff members of the consulate to testify, they may obtain verbal or written depositions in the consulate or in their residences and should avoid obstructing them from the performance of official functions.

#### Article 18. Waiver of Privileges and Immunity

1. The appointing country may waive the privileges and immunity prescribed in articles 16 and 17. Each waiver should be clearly indicated and notified in writing to the receiving country.

2. Where a member of the consulate who is entitled to, files a lawsuit, he may not invoke immunity from jurisdiction in respect of the counterclaim that is directly connected with the case.

3. The waiver of immunity during the litigation process should not be regarded as the waiver of immunity from the execution of decisions. The waiver of this immunity must be separately notified.

## Article 19. Freedom of Movement

Members of the consulate enjoy freedom of movement and freedom of travel in the receiving country, with the exception of areas prohibited from entry or stay under the laws and regulations of the receiving country.

## Article 20. Obligations and the Exemption of the Obligation To Report

1. Members of the consulate are exempt from all public and personal obligations in the receiving country.

2. Members of the consulate are exempt from the obligation prescribed by the laws and regulations of the receiving country requiring people who are not nationals of the receiving country to report and apply for residence permits.

## Article 21. Tax Exemptions for the Consulate

1. The receiving country shall exempt state, local, urban and other levies on the following:

(1) Consular premises, the residence of the head of the consulate and residences of members of the consulate purchased by the appointing country, or leased or used in the name of the appointing country; this also applies to the act of purchasing the aforementioned immovable property by the appointing country for consular purposes;

(2) Movable property purchased, possessed, owned, or used by the appointing country for consular purposes.

2. The provisions of Clause 1 shall not apply to the payment of service fees or the levies and fees payable under the laws and regulations of the receiving country by people who have concluded contracts with the appointing country or its representative.

## Article 22. Tax Exemptions for Members of the Consulate

Members of the consulate shall be exempt from all state, local, urban or other levies of the receiving country, with the exemption of the following:

(1) Indirect taxes which are usually included in the commodity price and service price;

(2) Levies on personal immovable property in the territory of the receiving country;

(3) Inheritance tax and gift tax on property in the territory of the receiving country;

(4) Income tax on personal income derived from the receiving country and property tax in the territory of the receiving country;

(5) Fees and levies for specific services;

(6) Registration fees, court fees, contract fees, notarial attestation fees, mortgage tax, or stamp duty.

#### Article 23. Exemptions for the Movable Property of the Deceased

In the event of the death of members of the consulate or their family members, the receiving country shall:

(1) Allow the shipment of the movable property of the deceased out of the country, with the exception of property obtained in the territory of the receiving country which is prohibited from export at the time of death of the deceased;

(2) The movable property of the deceased shall be exempt from state, local, urban or other levies provided that the property was acquired by the deceased in the receiving country because he was a member of the consulate or a member of his family.

#### Article 24. Exemption From Customs Duties and Customs Inspection

1. The receiving country, in accordance with its laws and regulations, allows the import and export of the following commodities and exempts all customs duties and other levies thereon, with the exception of storage, transport, and similar service fees:

(1) Goods for the consulate and means of transport;

(2) Private goods of consular officials and their family members;

(3) Goods for the staff members of the consulate and their family members upon their first arrival to take up office.

2. The personal luggage of consular officials is not subject to inspection. Inspection may be carried out only when there is major cause to suspect that the luggage contains goods not covered by clauses 1 and 2 of this article, or goods prohibited from import and export under the laws and regulations of the receiving country, or goods subject to quarantine laws. The inspection must be carried out in the presence of the consular official, the family members concerned, or their authorized representative.

#### Article 25. Privileges and Immunity for Family Members

The family members of consular officials or the staff members of the consular shall enjoy the facilities, privileges, and immunity enjoyed by the consular officials or the staff members of the consulate in accordance with the provisions of this treaty, subject to the provisions of Clause 2 of Article 26 of this treaty.

#### Article 26. Personnel Not Entitled to Privileges and Immunity

1. Staff members of the consulate who are nationals of the receiving country or have residence in the receiving country shall not be entitled to the facilities, privileges, and immunity prescribed in this treaty, with the

exception of the provision on the exemption from giving testimony on matters relating to their official duties mentioned in Article 17.

2. The provisions of Clause 1 of this article shall apply to family members of members of the consulate who are nationals of the receiving country or have residence in the receiving country.

3. Private service staff shall not be entitled to the facilities, privileges, and immunity prescribed in this treaty.

#### Chapter 4. Consular Functions

##### Article 27. Basic Consular Functions

Consular officials have the power to:

- (1) Protect the rights and interests of the appointing country and its nationals, and to provide assistance to nationals of the appointing country;
- (2) Strive for the development of economic, cultural, and scientific ties between the appointing country and the receiving country;
- (3) Promote the friendly relations between the receiving country and the appointing country by other means;
- (4) Employ all legal means to find out about the situation regarding the political, economic, commercial, cultural, and scientific developments of the receiving country, and make reports to the appointing country.

##### Article 28. Other Consular Functions

Consular officials may carry out other consular functions not specified in this treaty provided that they do not violate the laws and regulations of the receiving country.

##### Article 29. Performance of Consular Functions in the Consular District

Consular officials may only perform their consular functions in their consular district. Prior approval must be obtained from the receiving country for every consular function performed outside the consular district.

##### Article 30. Contacting the Authorities of the Receiving Country

Consular officials may directly contact the competent authorities of their consular district when performing their consular functions. Within the limits of the laws and regulations and common practices of the receiving country, they may directly contact the central competent authorities of the receiving country.

##### Article 31. Performance of Consular Functions for a Third State

The consulate may perform consular functions for a third state with the approval of the receiving country.

## Article 32. Consular Fees

1. Consular officials have the power to collect consular fees for consular actions in the receiving country provided that these conform to the laws and regulations of the receiving country.
2. Consular fees shall be exempt from all levies in the receiving country.

## Article 33. On Questions of Nationality and Travel Documents

Consular officials have the power to:

- (1) Register nationals of the appointing country;
- (2) Receive applications or issue documents on the question of identity in accordance with the laws and regulations of the receiving country;
- (3) Issue, extend, recertify, cancel, and withdraw passports or other travel documents for nationals of the appointing country;
- (4) Issue visas.

## Article 34. The Handling of Civil Functions

1. Consular officials have the power to:

- (1) Register the marriage, birth, and death of nationals of the appointing country and issue the relevant documents;
- (2) Solemnize a marriage where the parties concerned are nationals of the appointing country who are not at the same time nationals of the receiving country, provided that this does not contravene the laws of the receiving country;
- (3) Accept declarations and applications of nationals of the appointing country in respect of their civil status.

2. The provisions of Clause 1 of this article do not exempt the parties concerned from the obligation to abide by the laws and regulations of the receiving country.

## Article 35. Notarization and Attestation

Consular officials have the power to:

- (1) Receive declarations by nationals of the appointing country and draw up documents;
- (2) To draw up documents for the wills and other legal instruments of nationals of the appointing country and safekeep them;
- (3) To draw up documents for legal matters between nationals of the appointing country and safekeep them, with the exception of legal matters in connection with the establishment, alienation, or abrogation of land and property rights in the territory of the receiving country;



- (4) Certify the signatures of nationals of the appointing country on documents;
- (5) Certify the authenticity of copies or abridgements of documents;
- (6) Certify the translation of documents;
- (7) Attest or certify documents issued by the competent authorities or officials of the receiving country for use in the appointing country;
- (8) Carry out other notarial duties entrusted by the appointing country, provided that these do not violate the laws and regulations of the receiving country.

#### Article 36. The Legal Effect of Documents

Papers and documents issued, notarized, and attested by consular officials in accordance with the provisions of Article 35 shall have the same legal effect in the receiving country as the corresponding papers and documents issued by the competent authorities in the receiving country provided they are not in violation of the laws and regulations of the receiving country.

#### Article 37. Representing the Nationals of the Appointing Country

Provided that this does not contravene the laws and regulations of the receiving country, consular officials have the power to represent nationals of the appointing country or arrange appropriate representation for them before the law courts and other organs of the receiving country and take measures to protect the rights and interests of the nationals concerned in their absence or if they are unable to defend their rights and interests in good time due to other major reasons.

#### Article 38. Maintaining Contacts With Nationals of the Appointing Country

1. Consular officials have the power to maintain contacts with and meet nationals of the appointing country, render them support and help in their dealings with the authorities of the receiving country and in matters handled by the authorities concerned, ensure that they can get help from lawyers or other people, and introduce interpreters to them.
2. The receiving country should not try by any means whatsoever to restrict nationals of the appointing country from contacting or entering the consulate.

#### Article 39. Rights in the Handling of Criminal Proceedings of Nationals of the Appointing Country

1. The competent authorities of the receiving country shall notify consular officials of the temporary detention, arrest, or subjection to other forms of restriction of personal freedom of nationals of the appointing country in the receiving country. Notification shall be given within 7 days of the temporary detention, arrest, or the subjection to other forms of restriction of personal freedom of the nationals concerned.

2. Consular officials are entitled to meet and maintain contacts with nationals of the appointing country who have been temporarily detained, arrested, or subjected to other forms of restriction of personal freedom. The meeting shall be approved within 10 days of the temporary detention, arrest, or subjection to other forms of restriction of personal freedom of the nationals concerned, and may be repeated at a suitable interval.

3. The competent authorities of the receiving country shall explain to the national of the appointing country concerned of his rights under this article.

4. The rights mentioned in this article shall be exercised in accordance with the laws of the receiving country, provided that these rights are not abrogated as a result.

#### Article 40. Guardianship and Curatorship

1. Competent authorities of the receiving country shall notify the consular officials of all matters pertaining to the need to appoint guardians or curators for nationals of the appointing country residing or staying in the receiving country.

2. Consular officials have the power to contact the competent authorities of the receiving country in connection with the appointment of guardians and curators for nationals of the appointing country, and suggest suitable persons to be appointed as guardians or curators.

#### Article 41. Safekeeping Goods

1. Provided that the laws and regulations of the receiving country are observed, consular officials have the power to:

(1) Safekeep documents, cash, valuable goods, and other goods of nationals of the appointing country;

(2) Retrieve from the competent authorities of the receiving country documents, cash, valuable goods, and other goods lost by nationals of the appointing country during their stay in the receiving country, and return these items to their owners.

2. Goods taken into safekeeping under Clause 1 may only be taken out of the receiving country if the act does not violate the laws and regulations of the receiving country.

#### Article 42. Delivery of Documents

Consular officials have the power, within the scope permitted by the laws and regulations of the receiving country, to deliver to nationals of the appointing country papers and documents to be delivered by the law courts or other competent authorities of the receiving country.

#### Article 43. Communication of Information to Consular Officials

1. Consular officials are entitled to an understanding of the situation regarding the livelihood and work of nationals of the appointing country in the receiving country and to give them assistance where necessary.
2. The authorities of the receiving country shall help the consular officials understand the situation regarding nationals of the appointing country so that the consular officials may contact or meet these nationals.
3. The competent authorities of the receiving country shall immediately notify the consular officials after learning of the death or severe injury of nationals of the appointing country.

#### Article 44. The Handling of Estates of the Deceased

1. The competent authorities of the receiving country shall notify consular officials of the death of nationals of the appointing country in the receiving country without undue delay, and provide free of charge certificates of death and other documents certifying the death of the nationals concerned.
2. The competent authorities of the receiving country shall provide consular officials with all information they have on the estates of nationals of the appointing country who died in the receiving country.
3. The competent authorities of the receiving country shall notify the consular officials if, in a lawsuit over the deceased's estate in the receiving country, a national of the appointing country is the inheritor or has claims to the estate.
4. If a deceased national of the appointing country has left his estate in the receiving country, or if a national of the appointing country is the inheritor or has claims to the estate, consular officials may request the competent authorities of the receiving country to take measures to protect, safekeep, and manage the estate. Consular officials may assist in the implementation of these measures in accordance with the laws and regulations of the receiving country.
5. If a national of the appointing country is the inheritor or has claims to the deceased's estate, but he or his representative is not in the territory of the receiving country, consular officials have the power to designate a representative to act on behalf of the inheritor or the person with claims to the deceased's estate.
6. Consular officials have the power to retrieve from the competent authorities of the receiving country property belonging to the deceased's estate after the conclusion of the lawsuit over the said estate, and return it to the national of the appointing country concerned who does not have residence in the receiving country.

7. If a national of the appointing country dies during his short stay in the receiving country and there is no way of passing on his property to his agent, the competent authorities of the receiving country shall hand over the personal belongings, cash, and valuable goods carried by that national to the consular officials.

8. The handing over and exit of the property mentioned in clauses 6 and 7 are subject to the laws and regulations of the receiving country.

#### Article 45. Assistance to Vessels of the Appointing Country

1. Consular officials have the power to extend assistance to vessels of the appointing country in the ports, territorial waters, and inland waters of the receiving country.

2. Consular officials may contact and board vessels of the appointing country as soon as the latter are granted permission to land.

3. The captains and crew members of vessels of the appointing country may contact consular officials and, provided that the laws and regulations of the receiving country are observed, may go to the consulate.

4. Consular officials may, in their performance of duties, request the assistance of the competent authorities of the receiving country on all matters pertaining to the vessels, captains, crew members, passengers, or goods of the appointing country.

#### Article 46. Assistance to Captains and Crew Members

1. Consular officials have the power to:

(1) Without prejudice to the rights of the authorities concerned of the receiving country, consular officials may investigate all incidents that have occurred on board a vessel of the appointing country during its voyage, and interrogate the captain and members of the crew on the matter;

(2) Without prejudice to the rights of the authorities concerned of the receiving country, settle all disputes between the captain and the crew, including disputes over wages and employment contracts;

(3) Take measures in respect of the employment or dismissal of captains and crew members, provided that the laws and regulations of the receiving country are observed;

(4) Make arrangements for the captains, crew members or passengers to obtain medical treatment or return to their country;

(5) Receive, issue, extend, or verify all declarations and other papers regarding the vessels of the appointing country and their goods which are required by the laws and regulations of the receiving country, and examine the ship documents.

2. Consular officials have the power to extend all forms of assistance to the captains and the crew members of vessels of the appointing country and accompany them to the law courts and other competent authorities of the receiving country, provided that the laws and regulations of the receiving country are observed.

#### Article 47. Protection of Interests During Inspection on Board Vessels

1. The law courts or other competent authorities of the receiving country must notify consular officials beforehand and request the presence of the latter if they want to introduce compulsory measures or carry out special investigations on board vessels of the appointing country. In cases of emergency where prior notice cannot be given, the competent authorities of the receiving country must immediately notify the consular officials of all the details after action has been taken.

2. The provisions of Clause 1 shall also apply to interrogations conducted on land by the competent authorities of the receiving country in connection with matters pertaining to the vessels of the appointing country.

3. The provisions of clauses 1 and 2 shall not apply to customs, passport, and health inspection and other measures taken by the competent authorities of the receiving country at the request and with the approval of the captain, or to measures taken in accordance with the regulations on sea rescue or the prevention of sea pollution in bilateral agreements in force between the appointing country and the receiving country or in international agreements entered into by both countries.

4. Unless the relevant laws and regulations of the receiving country on order and security are at stake, the law courts and other competent authorities of the receiving country may not interfere in the internal affairs on board the vessels of the appointing country without the request and approval of the consular officials or the captains of the appointing country.

#### Article 48. Assistance in the Event of Accidents at Sea

1. If a vessel of the appointing country has an accident, is stranded, or has incurred other major disasters in the port, territorial waters, or inland waters of the receiving country, the competent authorities of the receiving country shall notify the consular officials forthwith and inform them of measures taken for the rescue of people on board, the vessel and its cargo. Consular officials may extend all kinds of help to the vessel of the appointing country, its captain, members of the crew, and passengers, and take measures to protect the cargo and repair the vessel.

2. If the captain, shipowner, agent, or the insurance company concerned cannot take the necessary measures to protect the vessel or its cargo, consular officials may take measures which should have been taken by the shipowner or cargo owner on behalf of the captain of the vessel of the appointing country.

3. The competent authorities of the receiving country shall extend the necessary assistance to consular officials when they take measures in connection with disasters happening to vessels of the appointing country.

4. The wrecked vessel of the appointing country, its cargo, and stock shall be exempt from customs duties and levies if they are not kept for use or sold in the receiving country.

#### Article 49. Aircraft of the Appointing Country

The provisions of articles 45 to 48 of this treaty shall apply accordingly to aircraft of the appointing country. However, this applicability may not be a transgression of the regulations of bilateral agreements in force between the appointing country and the receiving country or of international agreements entered into by both countries.

### Chapter 5. General Provisions and Final Provisions

#### Article 50. Observance of the Laws and Regulations of the Receiving Country

1. Without prejudice to their rights, personnel entitled to facilities, privileges, and immunity under this treaty have the obligation to observe the laws and regulations of the receiving country as well as the obligation not to interfere in the internal affairs of the receiving country.

2. Members of the consulate who are nationals of the appointing country may not engage in other professional activities outside their official functions.

3. The consulate, members of the consulate, and their family members have the obligation to observe the regulations of the receiving country regarding car insurance.

#### Article 51. Performance of Consular Functions by the Consulate

1. The provisions of this treaty shall also apply to the consular work of the consulate of the appointing country. The rights and obligations of consular officials stipulated in this treaty shall also apply to diplomatic personnel appointed by the consulate of the appointing country to perform consular functions. The appointment of these diplomatic personnel shall be notified to the Ministry of Foreign Affairs of the receiving country.

2. Diplomatic personnel appointed to perform consular functions under the provisions of Clause 1 shall still be entitled to the facilities, privileges and immunity they enjoy as diplomatic personnel.

#### Article 52. The Ratification, Entry Into Force, and Term of Validity of the Treaty

1. This treaty must be ratified. The instrument of ratification shall be exchanged at Beijing. This treaty shall enter into force on the 30th day from the date the instruments of ratification are exchanged.

2. This treaty shall be valid indefinitely, and shall remain in force for 6 months from the date either contracting party notifies in writing through diplomatic channels of its decision to abrogate this treaty.

3. From the date of entry into force of this treaty, the "Consular Treaty Between the PRC and the German Democratic Republic" signed on 27 January 1959 shall become null and void.

In witness thereof, the plenipotentiary representatives of the contracting parties have affixed their signatures and seals on this treaty.

Done in duplicate at Berlin on 31 May 1986 in the Chinese and German languages, both texts being equally authentic.

Plenipotentiary Representative of the PRC

Wu Xueqian (signed)

Plenipotentiary Representative of  
the German Democratic Republic

Oskar Fischer (signed)

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CSO: 4005/651

PRC, AUSTRIA AGREEMENT ON INVESTMENT PROMOTION, PROTECTION

Beijing STATE COUNCIL BULLETIN in Chinese No 31, 10 Dec 86 pp 928-935

[Agreement Between the PRC and the Republic of Austria on the Promotion and Mutual Protection of Investment--After an Exchange of Notes Between the PRC and the Republic of Austria Affirming That Respective Legal Procedures Stipulated in This Agreement Had Already Been Taken, This Agreement Entered Into Force on 11 October 1986]

[Text] The PRC and the Republic of Austria,

Desiring to develop economic cooperation between the two countries,

Recognizing that the promotion and mutual protection of investment will serve to strengthen such desires to invest, and thus contribute significantly toward the development of economic relations between the two countries,

Have, through negotiations by the representatives of the governments of the two countries, agreed as follows:

Article 1

For the purpose of this agreement:

1. "Investment" means all property as permitted by each contracting party in accordance with its respective laws and regulations in force and in particular, but not exclusively:

(1) Property, movable and immovable, as well as other real rights as mortgages, collaterals, usufruct, or similar rights;

(2) Shares of companies or other forms of participation;

(3) Claims to money for the purpose of creating economic financial value or other claims to deeds having a financial value;

(4) Copyright, industrial property right, technological processes, know-how, trademarks, and good will;

(5) Concessions related to the prospecting and excavation of natural resources.

Changes in the form of property invested shall not effect the nature of the investment.



2. "Returns" means the profit, dividends, interest, and other legal income.
3. "Investors" means, in respect of the PRC:
  - (1) Natural persons having their status as nationals of the PRC;
  - (2) Juridical persons, and organizations or associations with or without the status of juridical person, legally incorporated in accordance with the laws of the PRC with residence in the territory of the PRC;
  - (3) Juridical persons, as well as organizations or associations with or without the status of the juridical person who are investors with a major interest as referred to in Sections (1) and (2) and who have residence in a third state.

In respect of the Republic of Austria:

- (1) Natural persons having their status as nationals of the Republic of Austria;
- (2) Juridical persons, and organizations or associations with or without the status of juridical person, legally incorporated in accordance with the laws of the Republic of Austria with residence in the territory of Austria;
- (3) Juridical persons, and organizations or associations with or without the status of juridical person who are investors with a major interest as referred to in Sections (1) and (2) and who have residence in a third state.

#### Article 2

1. Each contracting party shall promote investments in its territory by investors of the other contracting party, and approve such investments in accordance with its legislation.
2. Each contracting party shall in all circumstances accord equitable and fair treatment to such investments.
3. Investments approved in accordance with Clause 1 and returns thereof shall be fully protected by this agreement. This protection shall also apply to reinvestments and returns from reinvestment.

#### Article 3

1. The treatment accorded to investments by investors of a contracting party in the territory of the other contracting party shall not be less favorable than that which is accorded to investments by investors of a third state.
2. The treatment accorded to investors of a contracting party for their investment-related activities in the territory of the other contracting party, particularly as regards the management, disposal, use, and utilization of investments, shall not be less favorable than that which is accorded to the investment-related activities of investors of a third state.

3. The above treatment shall not include:

(1) Benefits accorded by either contracting party to investors of a third state by virtue of customs union, free trade zone or membership to an economic community;

(2) Benefits accorded by either contracting party to investors of a third state in accordance with agreements on the avoidance of double taxation and other agreements relating to taxation; and

(3) Benefits accorded by either contracting party to investors of a third state for the purpose of facilitating border trade.

4. Each contracting party guarantees that without prejudice to its laws and regulations with respect to joint ventures with participation by shareholding foreign nationals and foreign enterprises it shall not adopt any discriminatory measures against joint ventures with participation by investors of the other contracting party or investments made by investors of the other contracting party.

#### Article 4

1. Investments made by investors of either contracting party in the territory of the other contracting party shall not be expropriated or subjected to measures having the same effect except for a public purpose, in accordance with legal procedures and with compensation. Such compensation shall amount to the value of the investment expropriated immediately before the expropriation became public knowledge. Compensation shall be made without undue delay and shall be realizable and freely transferable.

2. Where a contracting party expropriates the property of a company which is deemed a domestic company under Clause 3, Article 1 of this agreement and in which nationals or companies of the other contracting party own shares, it shall guarantee that the said nationals or companies are appropriately compensated in accordance with the provisions of Clause 1 of this article.

3. Investors of a contracting party and joint ventures with participation by shareholding investors of a contracting party whose investments suffer losses in the territory of the other contracting party owing to war, other armed conflict, state of emergency or other similar events shall be accorded by the latter contracting party treatment, as regards any relevant measures, not less favorable than the treatment accorded to investors of a third state.

4. Investors have the right to request the competent organ of the contracting party taking the expropriatory measure to review the legality of the expropriation.

5. Investors have the right to request the competent organ of the contracting party taking the expropriatory measure or an internal arbitral tribunal to review the amount of compensation for the expropriation.

6. Investors of a contracting party shall enjoy most-favored-nation treatment in the territory of the other contracting party in matters pertaining to this article.

#### Article 5

Either contracting party guarantees the free transfer of sums relating to investments by investors of the other contracting party, particularly but not exclusively:

- (1) Capital and additional amounts for the maintenance or extension of investment;
- (2) Returns;
- (3) Payments made for the reimbursement of loans extended by investors of a nature similar to participation in shareholding;
- (4) Royalties for relevant rights as referred to in Section (4) under Clause 1 of Article 1 and other fees;
- (5) The proceeds of total or partial liquidation of the investment; and
- (6) Compensation as referred to in Clause 1 of Article 4.

#### Article 6

If a contracting party or its authorized agent makes payment to its investors under a guarantee it has accorded in respect of an investment in the territory of the other contracting party, the latter contracting party shall, without prejudice to the rights of the former contracting party as stipulated in Article 10, recognize the assignment, whether under the law or pursuant to a legal transaction, of all the rights or claims or the said investors to the former contracting party, and shall recognize the subrogation of these assigned rights or claims by the former contracting party. The latter contracting party may also make counterclaims on the former contracting party as regards the subrogated rights or claims. Articles 4 and 5 may be invoked for the transfer of sums paid to the former contracting party as a result of such assignment of claims.

#### Article 7

1. Before the parties concerned have arrived at a better arrangement that is acceptable to the competent organ of the party accepting the investment, transfers as referred to in articles 4, 5 and 6 of this agreement shall be made in the currency agreed upon by both parties at the rate of exchange in force at the date of transfer, and shall be made without undue delay.
2. The rate of exchange referred to in the above clause must conform with the exchange rate between the special drawing rights of the IMF and the currency concerned at the date of transfer.

## Article 8

1. This agreement notwithstanding, if, in the present or future laws of either contracting party or in the commitments pursuant to international laws undertaken by both contracting parties, there are provisions, general or specific, which accord treatment to investments by investors of the other contracting party more favorable than that accorded by this agreement, the more favorable shall prevail.

2. Each contracting party shall abide by the commitments it undertakes to fulfill in contracts authorizing investments in its territory by investors of the other contracting party.

## Article 9

This agreement shall also apply to investments made by investors of a contracting party in the territory of the other contracting party in accordance with the laws of the latter contracting party before the entry into force of this agreement.

## Article 10

1. Disputes between the contracting parties concerning the interpretation and application of this agreement should, as far as possible, be settled through friendly negotiations.

2. If a dispute cannot be settled within 6 months, it shall, upon the request of either contracting party, be submitted to arbitration.

3. The arbitral tribunal shall be specially constituted in the following way: Each contracting party shall appoint a member of the tribunal, and these two members shall on the basis of a consensus select a national of a third state which has diplomatic relations with the contracting parties, who on approval by the governments of the contracting parties shall be appointed chairman of the tribunal. Members of the tribunal shall be appointed within 2 months of the notification given by a contracting party to the other contracting party to submit the dispute to arbitration, and the chairman of the tribunal shall be appointed within 2 months thereafter.

4. If within the periods specified in Clause 3 the appointments have not been made, either contracting party may, in the absence of any other agreement, invite the president of the International Court of Justice to make the necessary appointments. If the president of the International Court of Justice is a national of either contracting party or if he is otherwise prevented from discharging the said function, the member of the International Court of Justice next in seniority who is not a national of either contracting party shall be invited to make the appointments.

5. The arbitral tribunal shall make its decision on the basis of this agreement, other agreements concluded between the contracting parties, and the general principles of international law. It shall reach its decision by a majority of votes. Such decision shall be final and binding.
6. Each contracting party shall bear the cost of its own member of the tribunal and of its representation in the arbitral proceedings. The cost of the chairman and other costs shall be borne equally by the contracting parties.
7. The arbitral tribunal determines its own procedures.

#### Article 11

1. This agreement shall enter into force 1 month after the two governments have notified each other of the presence of domestic conditions necessary for the entry into force of this agreement. It shall be valid for 10 years. If neither contracting party serves written notice 12 months in advance of its intention to terminate this agreement, the period of validity shall be extended after the expiry of the 10-year period. This agreement may be terminated by either contracting party any time after the expiry of the 10-year period, but shall remain in force 1 year after the notice of the termination of this agreement is served.
2. In respect of investments made prior to the date this agreement ceases to be in force, the provisions of articles 1 to 10 of this agreement shall remain in force for a further period of 15 years from that date.

Done in duplicate at Beijing on 12 September 1985, in the Chinese and German languages, both texts being equally authentic.

Zheng Tuobin [6774 2148 1755]  
For the PRC  
(signed)

Norbert Steger  
For the Republic of Austria  
(signed)

#### Protocol

At the signing of the agreement between the PRC and the Republic of Austria on the Promotion and Mutual Protection of Investment, the undersigned, duly authorized by the two parties, have agreed upon the following provisions which form an integral part of the agreement.

1. With respect to Article 2:

Investments made in accordance with law by investors of a contracting party in areas over which the other contracting party exercises sovereign rights and jurisdiction shall also enjoy the full protection of this agreement.

2. With respect to Article 3:

(1) The "less favorable treatment" referred to in Clause 2, Article 3 and the "discriminatory measures" referred to in Clause 4, Article 3 of this agreement mean, particularly but not exclusively, restrictions as regards the acquiring of raw and semiprocessed materials, supplements, energy, production equipment, and operational tools, as well as measures having similar effect.

(2) The "discriminatory measures" referred to in Clause 4, Article 3 of this agreement does not include:

(a) Measures taken by a contracting party for reasons of public security and order or national hygiene and morality.

(b) Measures taken by a contracting party in consideration of priorities for the national economy; such measures being not specially directed against investors of the other contracting party or joint ventures with the participation of investors of the other contracting party.

(3) Each contracting party shall, as far as it is permitted by its legislation, promptly issue visas to personnel carrying out or executing investment activities in its territory.

Applicants for work permits should, where necessary, be given consideration with the best intentions and decisions should be made promptly.

3. With respect to Article 4:

(1) In the case of the expropriation, by the other contracting party, of the investments of a third-country juridical person and organization or association with or without the status of juridical person in its territory in which investors of a contracting party has a major interest, the provisions of Clause 1, Article 4 of this agreement shall also apply to such investments. However, the provisions relating to compensation shall only apply when the above-mentioned third-country juridical person and organization or association or third country, has no right to claim compensation, or if the third country renounces such rights.

(2) The international arbitral tribunal referred to in Clause 5, Article 4 of this agreement shall be specially constituted in the following way: Each party concerned shall appoint an arbiter. The two arbiters shall appoint an arbiter who is a national of a third state having diplomatic relations with both contracting parties as chairman. The arbiters shall be appointed within 2 months from the date when the investor notifies the other contracting party of its submission of the dispute to a arbitration, and the chairman shall be appointed within 2 months thereafter.

If within the periods specified above the appointments have not been made, either party may, in the absence of any other agreement, request the chairman of the International Arbitration Institute of the Stockholm Chamber of Commerce to make the necessary appointments.

The arbitral tribunal shall determine its own arbitral procedures with reference to the "Convention on the Settlement of Investment Disputes Between States and Nationals of Other States" done on 18 March 1965. The decision shall be reached by majority vote, and shall be final and binding and be enforceable in accordance with domestic laws. The arbitral tribunal shall state the basis of its decision and state the reason upon the request of either party concerned.

Each party concerned shall bear the cost of its own arbiter and its representation in the arbitral proceedings. The cost of the chairman and other costs shall be borne equally by the parties concerned.

4. With respect to Article 5:

In Article 5 of this agreement, "either contracting party guarantees the free transfer of sums relating to investments by investors of the other contracting party" means, in respect to the PRC:

(1) That the payment of compensation referred to in Section (6) of Article 5 shall be guaranteed free transfer in convertible currency by the competent authorities of the Chinese Government.

(2) That before more favorable provisions are stipulated in the foreign exchange control regulations of the PRC, the payments referred to in Sections (1) to (5) of Article 5 shall be made in accordance with appropriate foreign exchange control regulations and transferred out of China from the foreign exchange deposit accounts of the joint venture or foreign enterprise.

If these enterprises do not have sufficient foreign exchange in their foreign exchange deposit accounts as referred to in this clause to make the payment, the Chinese Government may provide the foreign exchange necessary for the transfer in the following cases:

(a) Payments referred to in Sections (1), (4) and (5) of Article 5 of this agreement;

(b) Payments already guaranteed by the Bank of China referred to in Section (3) of Article 5 of this agreement;

(c) Payments referred to in Section (2) of Article 5 of this agreement, in consideration of which the competent departments of the state have given special approval for the joint ventures or foreign enterprises concerned to sell their products in unconvertible currency.

5. With respect to Clause 1 of Article 7:

In Clause 1 of Article 7, transfer "shall be made without undue delay" means that it should be done within the time normally required to complete the

transfer procedures. From the date the application for transfer is submitted, transfer referred to in Sections (1) to (5) of Article 5 must be completed within 3 months, while transfer referred to in Section (6) of Article 5 must be completed within 6 months.

This protocol is done in duplicate at Beijing on 12 September 1985, in the Chinese and German languages, both texts being equally authentic.

Zheng Tuobin [6774 2148 1755]  
For the PRC  
(signed)

Norbert Steger  
For the Republic of Austria  
(signed)

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CSO: 4005/652



PREMIER'S MESSAGE ON U.S.-CHINA GROUP ANNIVERSARY

Beijing STATE COUNCIL BULLETIN in Chinese No 31, 10 Dec 86 p 939

[Premier Zhao Ziyang's Congratulatory Message on the 20th Anniversary of the Founding of the U.S.-China Relations National Committee]

[Text] New York,

Mr (Xie fei er) [6200 5481 1422], chairman of the U.S.-China Relations National Committee,

Mr (Luo sen) [5012 2773], president of the U.S.-China Relations National Committee,

On this occasion of the 20th anniversary of the founding of the U.S.-China Relations National Committee, I would like to extend to you, and through you to all members of your committee, my warm congratulations and best wishes.

For 20 years, your committee has won the applause of the Chinese and American peoples for its fruitful efforts in promoting friendly China-U.S. relations and the friendship between the two peoples and in expediting bilateral exchanges in the political, educational, cultural and other fields. Friendly China-U.S. relations have broad prospects of development. It is my belief that with our joint efforts, friendly China-U.S. relations will continue to develop and reach yet higher levels.

Zhao Ziyang,  
Premier of the State Council of the PRC,  
Beijing, 16 November 1986

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CSO: 4005/652

## PRESIDENTIAL APPOINTMENTS, REMOVALS

Beijing STATE COUNCIL BULLETIN in Chinese No 31, 10 Dec 86 p 943

[Appointments and Removals by the PRC President (30 November 1986)]

[Text] Appoint Zhang Wenpu [1728 2429 2613] Ambassador Extraordinary and Plenipotentiary of the PRC to Canada.

Remove Yu Zhan [0151 3277] from the post of Ambassador Extraordinary and Plenipotentiary of the PRC to Canada.

Appoint Zhang Zai [1728 0375] Ambassador Extraordinary and Plenipotentiary of the PRC to Australia.

Remove Nie Gongcheng [5119 0501 2052] from the post of Ambassador Extraordinary and Plenipotentiary of the PRC to Australia.

Appoint Zhou Jue [0719 6030] Ambassador Extraordinary and Plenipotentiary of the PRC to the Republic of France.

Remove Cao Keqiang [2580 0344 1730] from the post of Ambassador Extraordinary and Plenipotentiary of the PRC to the Republic of France.

Appoint Tian Zengpei [3944 2582 0160] Ambassador Extraordinary and Plenipotentiary of the PRC to the Socialist Federal Republic of Yugoslavia.

Remove Nie Li [6200 7812] from the post of Ambassador Extraordinary and Plenipotentiary of the PRC to the Socialist Federal Republic of Yugoslavia.

Appoint Zhang Yongming [1728 3057 2494] Ambassador Extraordinary and Plenipotentiary of the PRC to the Republic of Cuba.

Remove Wang Jin [3769 2516] from the post of Ambassador Extraordinary and Plenipotentiary of the PRC to the Republic of Cuba.

Appoint Yu Mengjia [0205 1322 0857] deputy permanent representative (with rank of ambassador) of the PRC to the United Nations.

Appoint Yuan Tao [0626 3614] Ambassador Extraordinary and Plenipotentiary of the PRC to the Republic of Bolivia.

Appoint Guo Jiading [6665 1367 7844] Ambassador Extraordinary and Plenipotentiary of the PRC to the Republic of Malta.

Remove Hua Renqin [5778 0086 3830] from the post of Ambassador Extraordinary and Plenipotentiary of the PRC to the Republic of Malta.

Appoint Jiang Xiang [3068 5046] Ambassador Extraordinary and Plenipotentiary of the PRC to Burkina Faso.

Remove Feng Zhishan [7458 1807 1472] from the post of Ambassador Extraordinary and Plenipotentiary of the PRC to Burkina Faso.

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- END -